

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF MASSACHUSETTS

UNITED STATES OF AMERICA

v.

MATTHEW DWINELLS,  
Defendant

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CRIMINAL No. 04-10010-PBS

UNITED STATES' OPPOSITION TO DEFENDANT'S MOTION  
FOR RELEASE ON CONDITIONS

The United States hereby objects to Defendant's Motion to be released on conditions. Because Defendant has not fully set forth the conditions he seeks, and because Pre-trial services has not yet evaluated the viability of the proposal, the United States cannot fully respond to Defendant's Motion at this time. Given the history of this case, however, the United States to a proposal that Defendant reside with his mother.<sup>1</sup>

Defendant is charged with attempted coercion and enticement in violation of 18 U.S.C. § 2422(b), receipt of child pornography in violation of 18 U.S.C. § 2252(a)(2), and possession of child pornography in violation of 18 U.S.C. § 2252(a)(4)(B). Defendant committed these crimes while he was living with his mother. All of the crimes with which Defendant is charged are defined as crimes of violence for purposes of 18 U.S.C. § 3142(f)(1)(A).

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<sup>1</sup>It is the United States' understanding that Pre-trial Services previously determined that Defendant's sisters and girlfriend would not be suitable third party custodians for Defendant. At least one sister had children residing in her home.

Indeed, the first two charges carry a presumption of dangerousness and risk of flight under 18 U.S.C. § 3142(e). Nonetheless, with the government's assent, Defendant was released on conditions after his initial arrest in February, 2004.

During the Spring and Summer of 2004, while he was supposed to be living with his mother, Defendant violated several conditions of his release, including that he stopped attending counseling, stopped working, and changed his living arrangements, all without informing pre-trial services. Ultimately, Defendant stopped contacting pre-trial services, and this Court issued an arrest warrant for him. The United States Marshals Service began a search for Defendant, during which Defendant's family was not cooperative. Ultimately, Defendant was arrested and assented to revocation of his conditions of release. Defendant recently wrote a letter to Judge Saris in which he stated that his mother is in ill-health, having suffered a heart attack.

Based on these facts, the United States submits that Defendant's mother is not a suitable third party custodian and opposes a release plan based on Defendant residing with her.

Respectfully submitted,

MICHAEL J. SULLIVAN  
United States Attorney

By:

Dena T. Sacco  
DENA T. SACCO  
Assistant U.S. Attorney  
(617) 748-3304

SARA GOTTOVI  
Trial Attorney  
United States Department of Justice

March 9, 2005

CERTIFICATE OF SERVICE

This is to certify that I have this day served upon the person listed below a copy of the foregoing document by depositing in the United States mail a copy of same in an envelope bearing sufficient postage for delivery:

Syrie Fried  
Assistant Federal Defender  
408A Atlantic Avenue  
Boston MA 02110

This 9th day of March, 2005.

Dena T. Sacco  
Dena T. Sacco  
ASSISTANT UNITED STATES ATTORNEY